

Remarks

The Office Action mailed November 9, 2005, and made final, has been carefully reviewed and the following remarks are made in consequence thereof.

Claims 1, 3-17, 21 and 22 are now pending in this application. Claims 1, 3-17, 21, and 22 stand rejected.

The rejection of Claims 1, 3-17, 21, and 22 under 35 U.S.C. § 102(b) as being anticipated by Thompson (US Patent No. 4,916,864) is respectfully traversed.

Thompson describes a refrigerator (10) including upper and lower doors (12) and (13), each including an outer metal shell (14) and a plastic liner (16). The metal shell includes inturned flanges (19) to which the liner is attached. An extruded retainer strip (22) secures the liner to the shell and provides for mounting of a snap-on flexible gasket (23). Screws (26) mount the liner and retainer to the shell. The retainer includes an outwardly extending shoulder portion (29) providing an inner wall (31) spaced from an adjacent surface (32) of the shell. An inwardly directed shoulder (36) formed along the inner extremity of the retainer cooperates with an outwardly extending channel (33) to provide a mounting structure for the flexible gasket. Notably, Thompson does not describe or suggest an inner panel of a dishwasher door having a unitary protrusion upon which a seal is slidably mounted.

Claim 1 recites a door panel assembly for a dishwasher including “a panel comprising a single unitary formation depending therefrom, said formation comprising a boot-shaped portion defining a heel portion, a toe portion substantially perpendicular to said heel portion, and a curved arch portion tapering from said heel portion to said toe portion; and a seal member comprising a head portion and an opening therein complementary in shape to said formation, said head portion opening defining a heel portion, an arch portion, and a toe portion for receiving respective portions of said boot-shaped portion of said formation to retain said seal member on said formation”.

Thompson neither describes nor suggests a door panel assembly as recited in Claim 1. More specifically, Thompson does not describe or suggest a single unitary formation depending from a panel, wherein the formation includes a boot-shaped portion including a curved arch portion tapering from a heel portion to a toe portion. Rather, in contrast to the present invention, Thompson describes a flexible gasket retainer formed from an assembly of parts that is threadedly attached to a metal shell of the refrigerator door.

Further, the Federal Circuit has held that the claim limitation "single unitary part" is properly construed to require that such part be a single part, complete by itself without additional pieces. *Sentry Protection Products Inc. v. Eagle Manufacturing Co.*, 73 USPQ2d 1929 (Fed. Cir. 2005) In Sentry, "[C]laims of patent for impact protection barrier, in which each impact protection component is a "single unitary part," are properly construed to require that impact protection component be single part, complete by itself without additional pieces, since patentees added "single unitary part" limitation to claims during prosecution for express purpose of distinguishing their invention from multi-component impact protection assembly disclosed by prior art reference...".

The Office Action at page 3 states "Thompson discloses elements attached together which form a single unitary formation." Applicants respectfully submit that this is inconsistent with the finding in Sentry above. The Office Action goes on to state "Integral vs. separate is not a patentable distinct feature unless the applicant can provide support the [sic] in the final apparatus stage that two elements attached together are patentably distinct from a single element." Thus, the Office Action, as best understood, seems to equate the limitation "integral" with the limitation "unitary". Notably, none of independent Claims 1, 8, 14, or 21 include the limitation "integral".

Accordingly, for the reasons set forth above, Claim 1 is submitted to be patentable over Thompson.

Claims 3-7 depend from independent Claim 1. When the recitations of Claims 3-7 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 3-7 are likewise patentable over Thompson.

Claim 8 recites a door panel assembly for a dishwasher, wherein the said door panel assembly includes "an inner door panel comprising a single unitary formation extending therefrom, said formation comprising at least one flat surface and a curved surface extending opposite said flat surface, said at least one flat surface defining a heel portion extending beyond said curved surface, said curved surface tapering to a toe portion; and a seal member comprising a head portion and an opening therethrough, said opening complimentary in shape to said formation and slidably receiving said formation to attach said seal member to said formation".

Thompson neither describes nor suggests a door panel assembly as recited in Claim 8. More specifically, Thompson does not describe or suggest a single unitary formation extending from a door panel, and a seal member slidably receiving the formation. Rather, in contrast to the present invention, Thompson describes a flexible gasket retainer formed from an assembly of parts that is threadedly attached to a metal shell of the refrigerator door. Moreover, Thompson does not describe or suggest a seal member that slidably receives a formation to attach the seal member to the formation. Rather, Thompson describes a flexible gasket that is snapped onto the retainer. Accordingly, for the reasons set forth above, Claim 8 is submitted to be patentable over Thompson.

Claims 9-13 depend from independent Claim 8. When the recitations of Claims 9-13 are considered in combination with the recitations of Claim 8, Applicants submit that dependent Claims 9-13 likewise are patentable over Thompson.

Claim 14 recites a door panel assembly including "a panel comprising a bottom portion, a formation extending therefrom, and a barrier portion extending therefrom in a spaced apart relationship to said formation, said bottom portion, said formation, said barrier portion, and said panel comprising a single unitary structure; and a seal member comprising a

head portion and a flap portion extending from said head portion and contacting a distal end of said barrier portion, said head portion comprising an opening therethrough for receiving said formation, said head portion engaged to said formation".

Thompson neither describes nor suggests a door panel assembly as recited in Claim 14. More specifically, Thompson does not describe nor suggest a panel having a bottom portion, a formation extending therefrom, and a barrier portion extending therefrom in a spaced apart relationship to the formation, and wherein the bottom portion, the formation, the barrier portion, and the panel are a single unitary structure. Rather, in contrast to the present invention, Thompson describes a refrigerator door having an outer shell, an inner liner, and a retainer for a flexible gasket that are all separate components, with the gasket retainer formed from an assembly of parts that is threadedly attached to the refrigerator door. Accordingly, for the reasons set forth above, Claim 14 is submitted to be patentable over Thompson.

Claims 15-17 depend from independent Claim 14. When the recitations of Claims 15-17 are considered in combination with the recitations of Claim 14, Applicants submit that dependent Claims 15-17 likewise are patentable over Thompson.

Claim 21 recites a bottom door seal for an inner panel of a dishwasher door, said seal including "a head portion and a flap portion extending from said head portion, said head portion defining a boot-shaped opening having a heel portion, a toe portion angularly displaced from said heel portion, and a curved arch portion tapering from said heel portion to said toe portion, wherein said head portion is configured to receive a complementarily shaped protrusion on the door panel for sliding attachment of the seal to the door panel".

Thompson neither describes nor suggests a bottom door seal wherein the seal includes a head portion and a flap portion extending from the head portion, and wherein the head portion defines a boot-shaped opening having a heel portion, a toe portion angularly displaced from the heel portion, and a curved arch portion tapering from the heel portion to the toe portion, wherein the head portion is configured to receive a complementarily shaped protrusion on the door panel for sliding attachment of the seal to the door panel. Moreover,

Thompson does not describe or suggest a gasket that includes a head portion having a boot-shaped opening wherein a curved arch portion tapers from a heel portion to a toe portion. Rather, as best understood from Fig. 3, the designated curved portion (43) tapers in the opposite direction from the designated toe portion (51) to the designated heel portion (41). Further, Thompson does not describe or suggest a bottom door seal wherein the seal includes a head portion configured to receive a complementarily shaped protrusion on the door panel for sliding attachment of the seal to the door panel. Rather, in contrast to the present invention, Thompson describes a flexible gasket that is installed by snapping the gasket over a retainer strip that is threadedly mounted on a refrigerator door (abstract and col. 3, lines 15-16).

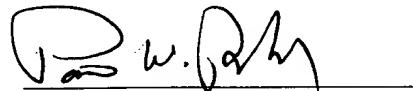
Accordingly, for the reasons set forth above, Claim 21 is submitted to be patentable over Thompson.

Claim 22 depends from independent Claim 21. When the recitations of Claim 22 are considered in combination with the recitations of Claim 21, Applicants submit that dependent Claim 22 likewise is patentable over Thompson.

For at least the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 1, 3-17, 21, and 22 be withdrawn.

In view of the foregoing remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



Patrick W. Rasche
Registration No. 37,916
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070